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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|-------------------|
| 10/716,365 | 11/18/2003 | Tom Lalor | 1013-00029 | 6675 |
| 26753 | 7590 | 07/12/2004 | EXAMINER | |
| ANDRUS, SCEALES, STARKE & SAWALL, LLP 100 EAST WISCONSIN AVENUE, SUITE 1100 MILWAUKEE, WI 53202 | | | | VALENTI, ANDREA M |
| ART UNIT | | PAPER NUMBER | | |
| 3643 | | | | |

DATE MAILED: 07/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|------------------------|---------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 10/716,365 | LALOR, TOM |
| | Examiner | Art Unit |
| | Andrea M. Valenti | 3643 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 18 November 2003.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-30 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-30 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>1</u> . | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 4-7, 11, 12, 15-24, 26, 27, and 30 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,263,836 to Hollis.

Regarding Claims 1, 27 and 30, Hollis teaches an automated animal return system and method for an animal comprising: an initiator for providing an initiating signal, a command system for issuing a command to the animal in response to said initiating signal, said command designed to encourage the animal to go to a reward zone (Hollis Col. 8 line 1-4); and a reward system for providing a reward to the animal in response to the initiating signal (Hollis Col. 4 line 50-53).

Regarding Claim 2, Hollis teaches the initiating signal is provided on an occurrence of a predetermined event (Hollis Col. 8 line 1-4).

Regarding Claim 4, Hollis teaches the command is selected from a group of audible commands consisting of clicks, tones, whistles and verbal commands (Hollis Col. 8 line 1-4).

Regarding Claim 5, Hollis teaches a locator system for determining a position of the animal relative to said reward zone, said initiator designed to provide said initiating signal when said locator system locates the animal within a first boundary zone located

beyond said reward zone, and wherein said reward system is designed to provide said reward only when said locator system detects that the animal begins to return to said reward zone from said first boundary Zone (Hollis Col. 5 line 39-45 and line 52).

Regarding Claim 6, Hollis teaches the locator system is selected from a group of locator systems consisting of GPS based locators, RF based locators, ultrasonic based locators, magnetic direction sensor based locators, accelerometer based locators, manual gate systems, electronic gate systems and combinations thereof (Hollis Col. 5 line 35-38).

Regarding Claim 7, Hollis teaches the reward is an audible reward selected from the group of audible rewards consisting of a click, a tone, a whistle and a verbal phrase (Hollis Col. 4 line 53).

Regarding Claims 11 and 16, Hollis teaches the reward is broadcast from a speaker mounted on a collar attached to the animal (Hollis #10).

Regarding Claims 12 and 17, Hollis teaches the reward is prerecorded (Hollis #51 and Col. 5 line 60).

Regarding Claim 26, Hollis inherently teaches the return system is portable for operation at a remote location (Hollis Fig. 1 and 2).

Regarding Claim 15, Hollis inherently teaches the sizes of said first boundary zone and said reward zone are variable.

Regarding Claim 18, Hollis teaches a discomfort system for applying a discomfort to the animal on an occurrence of a predetermined event (Hollis Col. 5 line 54).

Regarding Claim 19, Hollis teaches the predetermined event is selected from a group of events consisting of said locator system detecting that the animal has moved beyond said first boundary zone into a second boundary zone, and the animal not moving toward said reward zone after a predetermined amount of time following said issuance of said command (Hollis Col. 8 line 1-15).

Regarding Claim 20, Hollis teaches the discomfort is selected from a group of discomforts consisting of an electric stimulus administered by electrodes attached to a collar secured to the animal, an audible tone broadcast from a speaker attached to said collar secured to the animal or from a central location, and an offensive spray issued from a spray system attached to said collar secured to the animal, or combinations of the above-listed discomforts (Hollis Col. 5 line 55).

Regarding Claim 21, Hollis inherently teaches the intensity of said discomfort is variable (Hollis Col. 5 line 59-58).

Regarding Claim 22, Hollis teaches the discomfort is discontinued after a predetermined amount of time or following a predetermined number of applications (Hollis Col. 5 line 59-58).

Regarding Claims 23 and 24, Hollis teaches the return system is operable in a training mode to enable a trainer to train the animal to respond to said command, said training mode including a manual command mode to enable said trainer to manually cause said initiating signal to be issued and a manual reward mode to enable said trainer to manually cause said reward to be provided to the animal (Hollis #14).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3, 8-10, 13-15, 28 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,263,836 to Hollis in view of U.S. Patent No. 6,273,027 to Watson et al.

Regarding Claims 8, 9, 28, and 29, Hollis is silent on the reward being food or a combination of both food and audible. However, Watson et al teaches an animal behavioral modification device utilizing positive reinforcement with both a food and audible reward for desired behavioral detection (Watson #28 and Col. 3 line 13-15 and 48-50; Col. 4 line 44; Col. 5 line 13-15; Col. 8 line 38-41). It would have been obvious to one of ordinary skill in the art to modify the teachings of Hollis with the teachings of Watson et al since the modification is merely the selection of a known additional means of positive reinforcement to further enforce a behavior change in the animal by addressing two sensory areas audio and taste.

Regarding Claims 10 and 15, Hollis as modified teaches the broadcast from a speaker located in or near said reward zone (Watson #28).

Regarding Claim 13, Hollis teaches including a reward limiter to limit the provision of said food to selected times when the animal returns from said first boundary zone to said reward zone in response to said command (Watson abstract line 5).

Regarding Claim 14, Hollis as modified teaches selected times are determined based on a fraction of a total number of times the animal has returned from said first boundary zone to said reward zone in response to said command (Watson Col. 4 line 19-27).

Regarding Claim 3, Hollis as modified teaches the predetermined event is selected from the group of events consisting of a predetermined time, a predetermined temperature and a predetermined weather condition (Watson Col. 4 Line 19-27).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

French Patent FR 2571219 A1 and

U.S. Patents: US 20020046713A1; US005605116A; US006467435B2; US006722318B2; US006058889A; US005868103A; US005351653A; US006232880B1; US006700492B2; US006694916B1; US005749324.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrea M. Valenti whose telephone number is 703-305-3010. The examiner can normally be reached on 7:30am-5pm M-F; Alternating Fridays Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 703-308-2574. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Andrea M. Valenti
Andrea M. Valenti
Examiner
Art Unit 3643

22 June 2004

Peter M. Poon

Peter M. Poon
Supervisory Patent Examiner
Technology Center 3600